

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KENALL INC.

AI # 168739, 173344

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-RE-22-0032
*
* Enforcement Tracking Nos.
* RE-PP-11-01320
* RE-CN-15-00190
*
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*
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SETTLEMENT

The following Settlement is hereby agreed to between Kenall Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates a facility located in Harahan, Jefferson Parish, Louisiana (“the Facility”).

II

On March 26, 2012, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. RE-PP-11-01320 (Exhibit 1).

On February 23, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. RE-CN-15-00190 (Exhibit 2).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which One Thousand One Hundred Seventy and 26/100 Dollars (\$1,170.26) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty, Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made over a period of twelve (12) months in the amount of \$420.00 per month, with the last payment submitted for the amount of \$380.00. The first payment is due within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of

Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

KENALL INC.

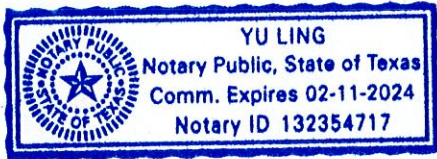
BY: [Signature]
(Signature)

Krishna D. Prasad
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 24th day of August, 20 22, at Houston, Texas.

[Signature]
NOTARY PUBLIC (ID # 132354717)



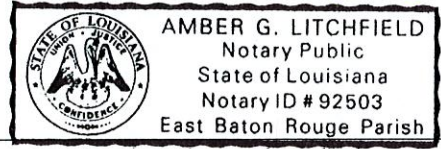
Yu Ling
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 14th day of November, 20 22, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Celena J. Cage, Assistant Secretary

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

March 26, 2012

CERTIFIED MAIL (7005 1820 0002 2362 8750)
RETURN RECEIPT REQUESTED

KENALL, INC.
c/o INCORP SERVICES, INC.
Agent for Service of Process
3867 Plaza Tower Drive, 1st Floor
Baton Rouge, Louisiana 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. RE-PP-11-01320
AGENCY INTEREST NO. 168739;173344**

Dear Sir:

On or about October 19, 2010, and October 21, 2010, an inspection was conducted at the Respondent's facility, owned and/or operated by **KENALL, INC. (RESPONDENT)**. The inspection was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Radiation Protection Regulations. The facility is located at 5120 Storey Street in Harahan, Jefferson Parish, Louisiana.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation(s) were noted:

- A. During the course of the inspection, it was noted that the Respondent failed to notify the Department prior to moving the radioactive source to a new location. This instance is a violation of LAC 33:XV.320.A.2 and Radioactive Material License LA-12302-L01, Condition #1.A. On November 9, 2010, an amended license was issued to show the change in storage location. This violation has been corrected.
- B. During the course of the inspection, it was noted that the Respondent exceeded the maximum number of sources allowed according to Radioactive Material License LA-12302-L01. This instance is a violation of



Notice of Potential Penalty
KENALL, INC.
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- LAC 33:XV.320.A.2 and Radioactive Material License LA-12302-L01. On November 9, 2010, an amended license was issued to show the change in the number of radioactive sources the licensee can possess. This violation has been corrected.
- C. During the course of the inspection, it was noted that the licensee did not have receipt and/or transfer records for the nuclear gauges at the time of the inspection. This is a violation of LAC 33:XV.104.A. During a second visit conducted on October 21, 2010, Mr. Chikyala provided the transfer records from the main office in Texas for the two gauges. This violation has been corrected.
 - D. During the course of the inspection, it was noted that the Humboldt nuclear gauge, serial number 4575, was leak tested on July 7, 2009, March 4, 2010, and October 8, 2010, exceeding its six month leak test interval. This is a violation of LAC 33:XV.426.A.2.
 - E. During the course of the inspection, it was noted that an inventory of all sealed sources was not conducted at six month intervals as required by Kenall, Inc.'s Operating and Emergency Procedure. This is a violation of LAC 33:XV.320.A.2 and Kenall, Inc.'s Operating and Emergency Procedures, Section 7.A.
 - F. During the course of the inspection, it was noted that an inspection of all gauges was not conducted at six month intervals as required by Kenall, Inc.'s Operating and Emergency Procedures. This is a violation of LAC 33:XV.320.A.2 and Kenall, Inc.'s Operating and Emergency Procedures, Section 8.C.
 - G. During the course of the inspection, it was noted that the door to the storage room was not posted with "Caution Radioactive Material" at the time of the inspection. This is a violation of LAC 33:XV.451.E. At the time of the return visit on October 21, 2010, the storage room was properly posted correcting this violation.
 - H. During the course of the inspection, it was noted that the source holder/plungers were not locked in the "off" position. This is a violation of LAC 33:XV.320.A.2 and Radioactive Material License LA-12302-L01, Condition

Notice of Potential Penalty
KENALL, INC.
page 3

#5.A. By the end of the inspection, Mr. Chikyala had locked both source holders correcting the violation.

- I. During the course of the inspection, it was noted that the nuclear gauges were not labeled with the licensee's name, address, and telephone number. This is a violation of LAC 33:XV.320.A.2 and Kenall, Inc.'s Operating and Emergency Procedures, Section 6.B. By the end of the inspection, Mr. Chikyala had added the licensee's name, address, and telephone number to the nuclear gauges correcting the violation.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Benjamin Garwood at (225) 219-3667 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

Notice of Potential Penalty
KENALL, INC.
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To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,

A handwritten signature in black ink, appearing to read 'CSN', written in a cursive style.

Cheryl Sonnier Nolan
Assistant Secretary

CSN/BG
Alt ID No. LA-12302-L01

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 23, 2017

CERTIFIED MAIL (7014 1200 0000 7864 0044)
RETURN RECEIPT REQUESTED

KENALL, INC.
c/o Incorp Services, Inc.
Agent for Service of Process
3867 Plaza Tower Dr., 1st Floor
Baton Rouge, LA 70816

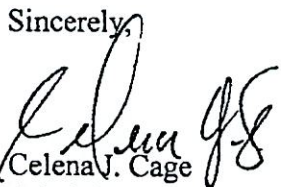
**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. RE-CN-15-00190
AGENCY INTEREST NO. 173344**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **KENALL, INC. (RESPONDENT)** for the violation(s) described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Kelly O'Neal at (225) 219-3932.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/KAO/kao
Alt ID No. LA-12302-L01
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
KENALL, INC.	*	ENFORCEMENT TRACKING NO.
JEFFERSON PARISH	*	
ALT ID NO. LA-12302-L01	*	RE-CN-15-00190
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	173344
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **KENALL, INC. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates a portable nuclear moisture and density gauge facility, located at 5120 Storey Street in Harahan, Jefferson Parish, Louisiana. The Respondent operates under Radioactive Materials License (RAM) LA-12302-L01.

II.

Inspections conducted by the Department on or about October 19, 2010, and October 21, 2010, resulted in the issuance of **NOTICE OF POTENTIAL PENALTY RE-PP-11-01320** to the Respondent on or about March 26, 2012. The enforcement action was received by the Respondent on or about March 28, 2012.

III.

On or about October 21, 2014 and October 23, 2014, the Department conducted inspections of the Respondent's facility to determine the degree of compliance with the Radiation Protection Regulations and the Act. While the Department's investigation is not yet complete, the following violations were noted at the time of the inspection:

- A. The Respondent failed to perform and maintain records of an annual inventory of all sealed sources, in violation of LAC 33:XV.104.B. Specifically, the Respondent did not have a copy of the inventory, which is conducted twice annually, available for review at the time of the inspection. The Respondent obtained the inventory records from the corporate office and presented them at the follow-up inspection on or about October 23, 2014.
- B. The Respondent failed to notify the Office of Environmental Compliance before making any changes that would render the information contained in the application for license no longer accurate, in violation of LAC 33:XV.320.A.2, and Radioactive Material License LA-12302-L01. Specifically, the Respondent currently has three (3) Humboldt Scientific soil moisture/density gauges. Each gauge houses ten (10) mCi of Cs-137 and 40 mCi of Am:Be-241. RAM License LA-12302-L01 states that the maximum amount of sources of each type allowed is two (2). RAM License LA-12302-L01 reissued on or about May 5, 2011, increased the maximum allowable sources to five (5) each of Cs-137 and Am:Be-241. This violation has been corrected.
- C. The Respondent failed to conduct leak testing within a six (6) month interval for the Humboldt Scientific soil moisture/density gauge, in violation of LAC 33:XV.426.A.2. Specifically, the Respondent states in the Operation and Emergency Procedures that leak test are to be conducted annually; however, the Respondent did not have documentation from the manufacturer to support the twelve (12) month authorization. Humboldt Scientific 5001EZ user guide Section 5.4 does not approve an extended leak test frequency. Leak tests were conducted on September 28, 2011, September 17, 2012, and September 11, 2014.
- D. The Respondent failed to maintain records showing the results of surveys and calibrations for three (3) years as required by LAC 33:XV.430 and 455.B, in

violation of LAC 33:XV.472.A. Specifically, the Respondent did not have the required records available for review at the time of the October 21, 2014 inspection. The records were obtained from the Respondent's corporate office and provided for review during the follow-up inspection on October 23, 2014.

- E. The Respondent failed to retain the required forms or records of individual monitoring results until the Department terminates each pertinent license or registration requiring the record, in violation of LAC 33:XV.476.E. Specifically, the Respondent did not have employee dosimetry records available for review at the time of the October 21, 2014 inspection. The records were obtained and reviewed for the period of July 2012 through September 2014 during the October 23, 2014 follow-up inspection.
- F. The Respondent failed to post current copies of the regulations, in violation of LAC 33:XV.1011.A.1. Specifically, the Respondent did not have a current copy of the regulations available. The Respondent obtained access to the regulations by the conclusion of the inspection.
- G. The Respondent failed to post current copies of the Form DRC-3, "Notice to Employees," in violation of LAC 33:XV.1011.C. Specifically, the Respondent did not have a DRC-3 "Notice to Employees" posted at the time of the initial inspection. The Respondent obtained a DRC-3 and posted it by the conclusion of the inspection.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Radiation Protection Regulations.

II.

To submit, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, records of current leak tests for all Humboldt Scientific soli/moisture density gauges. The Respondent shall also institute procedures to ensure that leak testing of sealed sources of radiation is done at intervals not to exceed once every six (6) months in accordance with LAC 33:XV.426.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Kelly O'Neal
Re: Enforcement Tracking No. RE-CN-15-00190
Agency Interest No. 173344

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. RE-CN-15-00190
Agency Interest No. 173344

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S.

49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed

regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Kelly O'Neal at (225) 219-3932 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.


III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 23rd day of February, 2017



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Kelly O'Neal